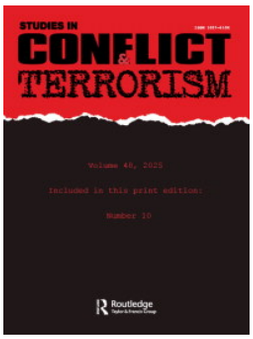

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The New EU Authority for Anti-Money Laundering and Countering the Financing of Terrorism: A Paradigm Shift in EU Efforts to Combat Terrorist Financing?

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The New EU Authority for Anti-Money Laundering and Countering the Financing of Terrorism: A Paradigm Shift in EU Efforts to Combat Terrorist Financing?

Oldrich Bures

Metropolitan University Prague, Prague 10, Czech Republic

ABSTRACT

This article explores the recent reforms of the European Union (EU) aimed at strengthening the fight against money laundering and terrorist financing, focusing on the creation of the new EU Anti-Money Laundering Authority (AMLA). It provides a comprehensive analysis of both the legal and institutional innovations introduced by the new framework, evaluating their potential impact on counter-terrorist financing (CTF) efforts across the EU. It identifies key shortcomings in the previous EU CTF measures, such as inconsistent national implementations, overreporting, and the challenges posed by de-risking practices. While the establishment of AMLA represents a significant step towards a more coordinated and harmonized approach to CTF, its success will depend on the EU's ability to ensure the long-term implementation of not only preventive but also repressive tools in the fight against terrorist financing, which were not covered within the new EU CTF framework.

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Introduction

Efforts to disrupt, deter, and dismantle terrorist financing networks have become key elements of the European Union's (EU) post-9/11 counterterrorism policy. According to the 2008 EU's Revised Strategy on Terrorist Financing, "[b]y making it more difficult for terrorists to use their means and resources to act on their intentions, the EU protects its citizens as effectively as possible. And financial tools, used proactively, are highly beneficial in the identification of terrorist networks and development of counter-terrorist intelligence."[1] Moreover, according to the original 2004 EU Strategy on Terrorist Financing, "[a]s well as reducing the financial flows to terrorists and disrupting their activities, action to counter terrorist financing can provide vital information on terrorists and their networks, which in turn improves law enforcement agencies' ability to undertake successful investigations."[2] This corresponds to the prevailing wisdom on counter-terrorist financing (CTF), which suggests that successfully executed CTF measures mitigate the first-mover advantage

CONTACT Oldrich Bures oldrich.bures@mup.cz Metropolitan University Prague, Dubecska 900/10, Prague 10 100 31, Czech Republic

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terrorists otherwise hold. In some cases, limiting the available resources "may prevent some attacks from taking place, or at least can reduce the impact of attacks that cannot be prevented."[3] In addition, CTF efforts should also help to track operatives, chart relationships, and deter individuals from supporting terrorist organizations both directly[4] and indirectly through the diversion of funds from charitable and other organizations.[5]

In the aftermath of the major terrorist attacks in Paris and Brussels in 2015 and 2016, however, both the Council of the EU and the European Council called for a major review and strengthening of the EU CTF measures. Following the publication of a series of critical internal reports, several new CTF Action Plan proposals by the European Commission, and intense political negotiations, a package of ambitious new CTF legislative measures was finally agreed upon by representatives of EU Member States (MSs) and the European Parliament in the spring of 2024 (see below). This package not only remarkably openly acknowledged a number of challenges and shortcomings that have hampered the hitherto EU CTF efforts, but it also included an unprecedented step: the creation of a new EU agency—the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA)—that will coordinate MSs national authorities "to ensure the correct and consistent application of EU CTF rules."[6]

While some studies have already examined the legal aspects of the new EU measures,[7] this study is the first to offer a comprehensive theoretically informed account of the counterterrorism aspects of both the legislative and institutional innovations, including AMLA. Specifically, building on antecedent literature that explains the changes in the EU's response to terrorism by accounting for both structural and cognitive causality (see below), the aim of this article is to analyze whether the new EU CTF measures represent a paradigm shift in EU efforts to combat terrorist financing? Following Andreeva's novel analysis of the impact of the 2015–2016 Paris and Brussels attacks on the evolution of information sharing in EU counterterrorism,[8] I conceptualize a paradigm shift as a fundamental reorientation of institutional frameworks and cognitive approaches which is driven by critical junctures (major terrorist attacks) and which is characterized by the adoption of new ideas, norms, and governance structures. By integrating key insights of historical and constructivist institutionalism, the paradigm shift approach illustrates how ideational shifts (recognition of legal and institutional shortcomings) and institutional reconfigurations (creation of AMLA) are interdependent, requiring a critical juncture (2015–2016 Paris and Brussels attacks) to trigger and institutionalize change. This synthesis suggests that paradigm shifts in EU counterterrorism policy depend on the confluence of critical structural disruptions, ideational innovation, and strategic agency, which collectively overcome institutional inertia and reorient previously path-dependent counterterrorism frameworks.

To probe my argument, I leveraged data both from official EU documents and secondary sources (academic literature and media reports), complemented by semi-structured interviews with EU and national officials and private sector representatives. I used convenience sampling to approach the interviewees based on my prior extensive research on EU counterterrorism. The list of interviews is provided at the end of this article. The interviews were conducted in person or over Skype between April and July 2024. Given the topic's sensitivity, I guaranteed anonymity to all

respondents. The transcribed interviews were coded using the NVivo software for qualitative data analysis.

The structure of this article is as follows. The first section offers an overview of the EU CTF response since 9/11, including the new EU CTF legislative measures. The second section provides a succinct review of the extant literature that attempts to explain the historical evolution of EU counterterrorism, specifically focusing on the most recent paradigm shift approach. The analysis of the key shortcomings of hitherto EU CTF efforts recently acknowledged by the EU and an overview of the intended aims of the EU CTF reform package are presented in section three. Sections four and five provide preliminary assessments of the key CTF challenges that the new EU CTF reform package does and does not address vis-à-vis the existing state-of-the-art in CTF research, respectively. The article's final section discusses how and why the AMLA reform package constitutes a paradigm shift in EU CTF efforts, while also pointing out the need for further reforms that would integrate both preventive and repressive CTF measures.

Making Sense of the Evolution of EU Counterterrorism Measures

The antecedent studies have advanced three major theoretical arguments for the evolution of EU counterterrorism over time. First, building on public policy-making literature, several authors emphasized the importance of supranational policy entrepreneurs for the growing role of the EU in counter-terrorism. Kaunert and Occhipinti, for example, stressed the Commission and the Council secretariat's influence as interest shapers that invested resources into specific counterterrorism proposals (e.g. the rules against terrorist financing) and successfully lobbied for their acceptance, thus weakening MSs' attachment to national sovereignty in counter-terrorism.[9] Similarly, Bossong argued that during the windows of opportunity in the aftermath of major terrorist attacks in Europe, the Commission and the Council Secretariat played a significant entrepreneurial role due to exceptional expectations of joint problem-solving, which EU MSs had difficulty meeting without such "external" agenda-setters.[10]

Second, from a historical institutionalist perspective, several studies emphasized the importance of path dependency, the institutional setting of the EU and critical junctures as the decisive, intertwined factors for reconstructing the stages by which counter-terrorism became an area of European governance. Argomaniz contended that the intergovernmental form of counter-terrorism cooperation in the 1970s–1980s and prior political decisions made in the 1990s have constrained institutional actors' reaction to 9/11—the sunk costs derived from switching from one alternative (complete new policies tailored to the terrorist threat) to the pre-existing one (rapid adoption of previously tabled instruments for criminal matters cooperation) were simply too high and the political pressure to "do something" obliged MSs to an immediate policy reaction. In his view, path dependency also helps to explain the transformation of Europol into a full-fledged European agency and stronger competencies for the Commission, European Parliament, and the Court of Justice in the European fight against terrorism as these could all be seen as examples of recombination and reuse of "old" EU structures to perform new counter-terrorism functions.[11] Alternatively, Wolff's account of the evolution of EU's counter-terrorism policy in the Mediterranean

emphasized the importance of cultural frames in addition to the weight of history and critical junctures.[12]

Third, from a constructivist perspective, major terrorist attacks in Europe led to a change in the perception of terrorism across Europe and, consequentially, also of the instruments that the EU MSs should put in place to fight this security threat.[13] Since the threat was publicly framed as transnational, national governments rapidly agreed on the need for coordinated European action. Thus, although only some European countries have suffered from sustained terrorist campaigns within their borders, there is a general agreement on the view that, at least in the EU discourse, terrorism has been internalized as a European threat. This has allowed the EU to present a common discourse that has sustained political consensus and, to a degree, unity of action, despite this action being often concocted by only a small group of countries within the EU.

In this article, I build on a recent analysis of the impact of the Paris and Brussels attacks in 2015/2016 on the evolution of information sharing in EU counterterrorism, which challenged the aforementioned explanations of EU counterterrorism as a process of gradual incremental European integration and institutionalization with the concept of a *paradigm shift*: an abrupt fundamental reorientation of institutional frameworks and cognitive approaches characterized by the adoption of new ideas, norms, and governance structures.[14] Although the origins of this concept can be traced already to the structuralist period of social sciences in the 1960s,[15] it has remained somewhat ambiguous and elusive due to the lack of a detailed explanation of the key factors, pre-conditions, and consequences. Andreeva's novel conceptualization of a paradigm shift in EU counterterrorism policy addressed these shortcomings by bridging both historical institutionalism and constructivist explanations and focusing on the interplay of structural and ideational dynamics during critical junctures. In this account, existing counterterrorism arrangements exhibit path dependency, creating stability but also resistance to change. For a paradigm shift to occur, these entrenched structures must face challenges—such as major terrorist attacks—that disrupt their foundational cognitive premises and existing operational and institutional paths. These events destabilize established frameworks, opening critical junctures, i.e. windows of opportunity for significant institutional and policy change.

Not all critical junctures, however, result in paradigm shifts. According to Andreeva, the following key factors need to accompany a critical juncture for a paradigm shift to occur:

1. *Cognitive Shifts*: Since counterterrorism is, to a large degree, shaped and dominated by practitioners, a paradigm shift requires the emergence of new ideas and cognitive shifts that reframe how terrorism is conceptualized, providing a compelling alternative to the status quo.
2. *Policy Entrepreneurship*: The role of policy entrepreneurs who advocate for new frameworks, leveraging the uncertainty of critical junctures to push for institutional and ideational transformations, is crucial.
3. *Positive Feedback Loops*: For a paradigm shift to institutionalize, it must generate positive feedback among relevant stakeholders, demonstrating the added value of the new approach in addressing both immediate threats and broader governance challenges.[16]

In summary, a paradigm shift occurs when exogenous shocks or endogenous challenges disrupt existing path dependencies, enabling policy entrepreneurs to advocate for and institutionalize alternative frameworks that redefine how terrorism is conceptualized and addressed at the EU level. Since EU counterterrorism governance involves multiple actors across supranational, national, public-private, and sectoral levels, a paradigm shift also requires alignment across these levels, addressing inter-agency trust and operational inefficiencies while ensuring accountability. In the remainder of this article, I explore whether such an alignment has materialized in EU efforts to fight terrorist financing in the aftermath of the 2015–2016 Paris and Brussels attacks.

Overview of the Evolution of EU Measures to Combat Terrorist Finances: Multi-Level Governance Complexity and Path Dependency

Following the 9/11 events, the European Union has developed a number of instruments to fight terrorist finances. Most of them were specifically designed to implement and/or enhance the two key CTF frameworks, whose logic has, at least since 9/11, shaped CTF efforts worldwide—the smart sanctions model advanced by the United Nations (UN) Security Council and the anti-money laundering (AML) model advanced by G-7's Financial Action Task Force (FATF).[17] The former is a repressive approach that works by drawing up a blacklist of targeted persons and/or groups, imposing obligations on all UN MSs to freeze the listed persons' and organizations' transactions and confiscate their assets, impose travel bans, and criminalize any attempts to provide them with financing. The latter is a preventative risk-based approach that works by setting specific obligations for financial institutions and certain non-financial institutions and professionals who, by virtue of their business activities and the intrinsic risks posed by their clients, are considered to be best placed to identify and intercept terrorist financing-related transactions. Specifically, they are required to carry out customer due diligence (CDD) to identify and verify the identity of customers and beneficial owners, to obtain information on the business relationship and to monitor it. Moreover, they are obliged to report suspicious transactions and activities to public authorities for further investigation.

Repressive Measures

Regarding the smart sanctions model, on the basis of Articles 60 and 301 of the then-valid Treaty of the European Union, the Council promulgated the key elements of several UN Security Council Resolutions (UNSCRs) as First Pillar EC regulations. Specifically, in response to the requirements in the UNSCR 1373, which obliged all UN MSs to criminalize acts of terrorist financing, as well as to freeze funds and assets of those engaged in terrorist activities, the Council adopted Common Position 2001/931/CFSP on the application of specific measures to combat terrorism. Referring to the 2002 Council Framework Decision 2002/475/JHA definition of terrorist offenses, the Common Position established a comprehensive list of persons, groups, and entities considered terrorists. In addition to the measures aimed at implementing UNSCR 1373, the EU has sought to comply with the 1999 UNSCR 1267 and the 2000 UNSCR 1333 (later replaced by UNSCR 1988 and 1989), which called for the freezing of funds

and financial assets of the Taliban, Al-Qaeda and their associates; and the more recently adopted resolutions concerning the so-called Islamic State (IS; UNSCRs 2161, 2170, 2199, 2249, 2253). An innovative legal approach allowed the Council to agree upon several Common Positions (1999/727/CFSP, 96/746/CFSP, 2001/154/CFSP, 2001/771/CFSP, 2002/402/CFSP) that in turn opened the path for the adoption of corresponding Council Regulations aimed at implementing the relevant UNSCRs. Similar to the Common Position 2001/931/CFSP, there is a list of persons and entities whose assets should be frozen by relevant EU authorities. However, unlike the lists established by designated EU authorities in 2001, where the Council decides autonomously which specific groups, persons, or entities qualify to be listed, in the case of Al-Qaeda, the EU simply adopted the list that was established by the UN 1267 Committee, which oversees the implementation of the UNSCR 1267.

A significant modification of the previously fairly clear correspondence between the two UN counterterrorism sanctions regimes (e.g. UNSCR 1267 and UNSCR 1373) and their implementation by the EU (as discussed above) occurred in September 2016 with the adoption of Council Decision (CFSP) 2016/1693 (and a corresponding new Council Regulation (EU) 2016/1686). This Council Decision fulfills two objectives. While the first is to continue to implement the UN sanctions against IS and Al-Qaeda associates as designated on the UN sanctions list, the second institutes the possibility of autonomous EU restrictive measures against a potentially much broader list of persons associated with IS and Al-Qaeda (or any group deriving thereof), in addition to those listed by the UN Security Council. As such, this modification appears to reflect the EU's desire to improve its response to urgent threats posed by foreign fighters, i.e. individuals who travel to a state other than their states of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training. The EU is now also able to impose restrictive measures on individuals traveling or seeking to travel both outside the EU and into the EU, with the aim of supporting IS and/or Al-Qaeda or receiving training from them. Finally, in contrast to the previous legal regime, the EU is now able to list any person meeting the criteria, including EU nationals.

Preventative Measures

Regarding the anti-money laundering model, which has been advanced by the FATF on the assumption that there are important similarities between traditional money laundering and terrorist financing, the key EU CTF measures adopted under the former First Pillar are the First (1991), Second (2001), Third (2005), Fourth (2015) and Fifth (2018) Money Laundering Directives (MLD). The first two directives imposed anti-money laundering obligations on private financial institutions and designated non-financial professional bodies, and mandated the establishment of financial intelligence units (FIUs)[18] in EU MSs. The Third MLD was the first one to explicitly include CTF measures as it introduced a binding requirement on MSs to implement in national law a large part of the revised FATF's Forty Recommendations, and seven of the nine Special Recommendations. As such, the Third MLD required the EU MSs to forbid anonymous accounts and places detailed demands on a wider range of private entities to increase surveillance of their clients and their accounts. Several of these

requirements were further specified and/or expanded in the Fourth MLD, including greater emphasis on ultimate beneficial ownership and enhanced customer due diligence; a lower cash payment threshold of €7.500; the inclusion of the entire gambling sector beyond just casinos; and an enhanced risk-based approach, requiring evidence-based measures. Overall, the Third and Fourth MLDs are salient examples of large-scale public-private security cooperation and an intelligence-led fight against terrorism.[19] Thus, instead of the application of a set of fixed norms to every transaction as required in the First and Second EU MLDs, the Third and Fourth MLDs introduced a risk-based approach under which the regulated private entities (in practice mainly the banks and other financial services providers) are required to identify the identity and monitor all transactions of all their clients, to store and monitor their clients' data and to make risk-assessments to detect suspicious transactions.

The Fifth EU MLD facilitates the work of financial intelligence units, sets up centralized bank account registers to identify holders, and addresses risks linked to virtual currencies and anonymous pre-paid cards. It also ended the anonymity of bank and savings accounts, as well as safe deposit boxes and created central access mechanisms to bank account and safe deposit boxes holder information throughout the EU. Furthermore, the Fifth MLD grants the general public access to beneficial ownership information of EU-based companies and makes information on real estate holders centrally available to public authorities. Finally, the Sixth MLD harmonizes the definition of money laundering by including a unified list of 22 predicate offenses that may generate a criminal property to commit a money laundering offense, including environmental crimes, tax crimes, and cybercrime, trafficking of drugs and humans, and fraud. Furthermore, criminal liability is extended to legal entities where a money laundering offense is committed for their benefit by an individual in a leading position within that entity. As such, the EU's sixth MLD "strives to change the way individuals and organizations are held accountable for not only committing financial crimes but also enabling them."

Other EU measures implementing the FATF's Recommendations are Regulation No 1889/2005 on controls of cash entering or leaving the Community, Regulation No 1781/2006 on information on the payer accompanying transfers of funds and the directive 2007/64/EC on a new legal framework for payments in the internal market. Their provisions, respectively, compel travelers entering or leaving the EU to make an obligatory declaration when carrying more than €10,000; require money transfers to be accompanied by the identity of the sender; and aim to license those entities in a country providing as a service the transmission of funding, including informal money-transferring networks such as *hawalas*. In addition, although not solely related to CTF, the following legal measures are also relevant: the 2001 Protocol to the 2000 Convention on Mutual Legal Assistance, Council Decision of 17 October 2000 concerning arrangements for cooperation between FIUs, Framework Decision 2005/212/JHA on confiscation of crime-related proceeds, Council Decision 2005/671/JHA on the exchange of information and cooperation concerning terrorist, Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime, and the Electronic Money Directive 2009/110/EC. Three new pieces of legislation harmonizing or updating existing rules entered into force in 2018 and

started to apply from 2020: Directive 2016/0414 (COD) on countering money laundering by criminal law establishes common minimum sanctions, Regulation 2018/1805 on the mutual recognition of freezing orders and confiscation order, and Regulation 2018/1672 on controls on cash entering or leaving the Union upgrades the definition of cash stated in the Regulation 1889/2005 to include virtual currencies. The adoption of the last regulation reflects the growing concerns about the use of cryptocurrencies for money laundering, tax evasion, and terrorist financing[20] and the inadequacy of the existing European legal framework to deal with both virtual assets and their service providers.[21] These challenges were also confirmed by the Office of the EU-Counter Terrorism Coordinator (Interview 3).

(Calls for) New EU Measures to Combat Terrorist Finances in the Aftermath of Terrorist Attacks in Paris and Brussels: Critical Junctures

In December 2018, the Council adopted conclusions on a new action plan to better tackle money laundering and terrorist financing, which set out a number of short-term non-legislative actions to enhance the supervision of anti-money laundering activities and encourage cooperation between competent authorities (15164/18), and agreed on a proposal for strengthening the role and powers of the European Banking Authority to ensure that EU anti-money laundering rules are effectively applied in all member states and all national anti-money laundering supervisors cooperate closely with each other (15569/18). All of these new measures were in line with the February 2016 Commission Action Plan for strengthening the fight against terrorist financing (COM(2016) 50 final), which was adopted after both the Council of the EU and the European Council called for a review and strengthening of the EU legislation in the aftermath of terrorist attacks in Paris and Brussels. In July 2019, the Commission published another AML/CTF package which consisted of a political communication entitled "Towards better implementation of the EU's anti-money laundering and countering the financing of terrorism framework" (COM(2019) 0360), report on the assessment of recent alleged money laundering cases involving EU credit institutions (COM(2019) 0373), report on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities (COM(2019) 0370), and report on the interconnection of national centralized automated mechanisms (central registries or central electronic data retrieval systems) of the Member States on bank accounts (COM(2019) 0372).

In May 2020, the Commission published its latest Action Plan for a comprehensive EU policy on AML/TF (COM(2020) 2800) with six key pillars: (1) Implement the current framework effectively; (2) Create an updated and more precise EU rulebook; (3) Establish EU-level supervision of obliged entities or the financial sector; (4) Facilitate better cooperation among FIUs); (5) Facilitate better EU-level criminal law provisions and information exchange; (6) Address the threat of high-risk third countries and increase international presence. The Action Plan was overwhelmingly approved by the members of the European Parliament in July 2020 and by the Council of the European Union in November 2020.[22] In July 2021, the Commission unveiled four corresponding legislative proposals that cover pillars 2, 3, and 4 of its 2020 Action Plan, which were ultimately

Table 1. Overview of new measures and major changes introduced by the new EU AML/CTF framework.

What's new	What changes
• New sectors brought into the scope (crypto-asset service providers, residence scheme operators) • Risk-based approach to third countries • Requirement to disclose beneficial ownership for non-EU entities that have a link with the EU • Powers for beneficial ownership registers to check information • Disclosure requirements for nominees • Harmonized approach for reporting suspicious activity/transactions • Prohibition of bearer shares that are not intermediate • Capping of large cash payments to €10,000 • Interconnection of bank account registers • Public oversight of supervision in some sectors • Joint FIU analyses • AML/CTF supervisory colleges • Traceability requirements for crypto-assets	• Clearer rules for AML/CTF risk management measures, including for groups and networks • Harmonized customer due diligence process • Harmonized approach to identification of beneficial ownership • Minimum set of financial, administrative and law enforcement information to which all FIUs should have access • Clarification of the powers of supervisors • Improved cooperation among authorities

Source: Compiled by the author based on data from the European Commission.

adopted by the Council and the Parliament in 2023 and 2024: Regulation 2024/1620 establishing an EU Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA) in the form of a new EU regulatory agency; Regulation 2024/1624 on AML/CTF, containing directly applicable AML/CTF rules, including a revised and expanded EU list of "obliged entities" subject to AML/CTF rules; Directive 2024/1640 replacing the previous EU AML/CTF Directive (Directive 2015/849 as amended) and containing provisions not appropriate for a Regulation and requiring national transposition, such as rules concerning national supervisors and Financial Intelligence Units in MSs; Regulation 2023/1113 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 and Regulation 2015/847. A summary of key changes and innovations stemming from this new set of measures is presented in Table 1. Jointly, they represent the most ambitious attempt to reform the EU's post-9/11 AML/CTF regime. Moreover, as discussed in the next section, both the content of these new legislative measures and the latest Commission and Council's CTF Action Plans (see above), and other official EU documents offered an exceptionally critical self-reflection of the persistence of the numerous challenges related to both the legal transposition of EU rules in EU MSs and their practical application by both public and private actors, which were previously extensively documented in the antecedent academic literature on CTF.

Newly Acknowledged Challenges of EU Measures to Counter Terrorist Financing and Proposals to Address Them: Cognitive Shifts and Policy Entrepreneurship by the European Commission

In order to justify the need for more EU-level action and a new EU agency tasked with the fight against money laundering and terrorist financing, the EU Commission's legislative proposals and accompanying mandatory impact assessments offered unique insights into the shortcomings of previously adopted EU measures:

> Unless the EU adopts a new, comprehensive approach to preventing money laundering and terrorism financing …, the EU economy and financial system will remain exposed to risks. While the current tools have gone a long way towards tackling these risks, they are not sufficient to address problems that due to a fast evolving context have become structural in nature … and cannot be remedied by Member States acting alone. An ineffective AML/CFT framework in one Member State or differences between rules across Member States, may be exploited by criminals and have consequences for other Member States. Member States alone cannot ensure consistent integration of the latest international standards in the EU framework, nor increased consistency with other EU rules.[23]

The persistence of the several challenges related to both the legal transposition of EU rules and their practical application by public and private security actors was also acknowledged in the latest Commission and Council's CTF Action Plans (see above), other official EU documents, and by the interviewed EU officials: "We recognized that our system to fight financing of terrorism was not robust enough." (Interviews 6 and 8). To a large extent, this critical self-reflection is a consequence of several recent high-profile AML/CTF scandals involving EU-based financial institutions, including Danske Bank, and Wirecard, as well as other past scandals, such as Luanda Leaks, Cum Ex, the Panama Papers, Lux Leaks and the Paradise Papers, all of which "have repeatedly shaken citizens' trust" in EU MSs' financial and tax systems.[24] The four reports accompanying the Commission's 2019 AML/CTF Package in July 2019 (COM(2019) 0360, COM(2019) 0370, COM(2019) 0372, COM(2019) 0373), for example, identified four broad categories of shortcomings of the EU AML/CTF framework: (1) ineffective or lack of compliance with the legal requirements for AML/CTF systems and controls, with numerous credit institutions not prioritizing compliance with AML in their policies; (2) governance failures in relation to AML, especially reporting deficiencies in large cross-border banking groups, which were caused by the absence of translations of audit reports, and difficulties for local staff to get access to the top management of the institution in another MSs; (3) misalignments between risk appetite and risk management; (4) critical understaffing of public AML supervisors in some MSs, while in others, staff seem to have been lacking sufficient experience or knowledge of how to carry out their supervisory tasks. Jointly, these reports "showed failings in the effectiveness and efficiency of the EU AML system, stemming from all three key components: Obliged Entities, supervisors and FIUs, and the interaction between those entities."[25]

In July 2021, the Commission's Impact Assessment accompanying the new AML/CTF package offered a similarly self-critical analysis. This document represents the first-ever comprehensive EU evaluation of the existing AML/CTF framework due to substantial transposition delays of the fourth and fifth EU AMLDs.[26] It identified three major problems that hamper the achievement of the priorities the Commission outlined in its May 2020 Action Plan (see above), their drivers, and a range of resulting negative consequences. Several policy options were presented to address each of the identified problems, ranging from the continuation of the current AML/CTF framework to moderate and greater levels of harmonization of rules and direct supervisory powers at the EU level. Each policy option also included an assessment of their compliance costs, both financial, administrative, and personal, for all relevant public and private entities involved in the EU AML/CTF framework.

Insufficient/Ineffective Application of AML/CTF Measures by Private Sector Entities

First, the Commission argued that "the application of AML/CTF rules across the EU is both ineffective and insufficient" due "to a number of deficiencies in the application of AML/CTF measures by the private sector."[27] In line with the antecedent academic literature on EU CTF, the Commission noted that "[w]hile these were sometimes the result of neglect or excessive risk appetite by private operators, … they [also] link directly to the lack of clarity in current EU rules, which leads to divergent application."[28] More specifically, the Commission noted that: "There is no indication that de-risking brings benefits in terms of preventing money laundering or terrorist financing, as laundering techniques continuously evolve. The private sector often lacks information on new trends to apply a smart approach that could differentiate suspicious activities from legitimate ones."[29] This is a consequence of the "the lack of clarity, and limited nature, of some of the rules adopted at EU level, combined with different approaches in gold-plating, [that] have resulted in diverging implementation of the EU legal framework across Member States and across obliged entities."[30] As drivers of these shortcomings, the Commission explicitly highlighted the variations in national rules when it comes to the degree of transparency imposed by MSs regarding the beneficial ownership of companies and trusts; the identification of obliged entities, such as crowdfunding platforms and crypto assets service providers; the powers of national AML/CTF supervisors and national FIUs; deadlines for the exchange of information between FIUs; ceilings for large cash payments; and customer due diligence provisions. These variations generate "legal uncertainty" and entail "a significant compliance burden for entities subject to AML/CTF rules that operate cross-border, with adverse impacts on their capacity to detect suspicious transactions."[31] Finally, the Commission also noted that the "scope of the current rules is also ineffective in dealing with new threats arising from innovation," such as the growing popularity and adoption of cryptocurrencies that has also led to their increasing use in both AML and CTF.[32]

To remedy these shortcomings, the Commission proposed "a single EU rulebook" that would limit the aforementioned divergences in the interpretation and application of the rules AML and CTF. As noted by one interviewed EU official: "We need much more robust rules to reinforce the system. To clarify the rules that apply to gatekeepers in the private sector. But the objective that the Commission has pursued with its legislative proposal is not only to make the rules more robust and clearer but also to harmonize them so that the same rules apply across the EU." Thus, the Commission argued that the key elements should be turned into directly applicable provisions set out in a Regulation instead of a Directive where the legal transposition is left to MSs. This unified AML/CTF regulatory framework would, therefore, include rules and requirements imposed directly on obliged entities, whose list should be expanded beyond financial institutions (banks, life insurance companies, payment service providers, and investment firms) to include additional types of non-financial entities and operators (including lawyers, accountants, real estate agents, casinos, and certain types of Crypto-Asset Service Providers). These new EU rules should be "more detailed and granular than at present, and will include a number of Regulatory Technical Standards to be prepared by the future EU AML Authority (for example, on Customer Due Diligence)."[33] The Council and the European Parliament ultimately agreed to the

Commission's proposal when they adopted the aforementioned Regulations 2024/1624 on AML/CTF and 2023/1113 on information accompanying transfers of funds and certain crypto-assets. The full new "single EU rulebook," including technical standards, is expected to be in place and apply by the end of 2025.[34] The EU AML coordination group has, nonetheless, already identified 80 Implementing or Regulatory Technical Standards required to specify the details of the new single AML/CTF rulebook.[35]

Insufficient Control That Obliged Entities Apply AML/CTF Rules

The second major problem identified by the Commission is "insufficient oversight of how entities subject to AML/CTF rules apply them."[36] This is most apparent in the case of entities subject to AML-CTF rules in the non-financial sectors:

> Data submitted for 2019 indicate that in a third of Member States no or close to no inspection was performed on accountants and tax advisors, lawyers or trust and company service providers. In some Member States, all these inspections were followed up by an instruction or remedial measure, while in other Member States no action was taken upon any inspection. The sanctions imposed vary significantly for the same group of professionals and breaches from one Member State to another (EUR 2 000 - 30 000).[37]

Moreover, in contrast to the aforementioned overreporting by financial sector entities, "the number of suspicious transactions or activities reported by these professionals, with the exception of gambling operators and notaries in some Member States is extremely low (e.g. for some professions, such as trust and company service providers, the number of suspicions reported is rarely above 20 and often in the single digit)."[38] As drivers of these shortcomings, the Commission explicitly highlighted the divergence of quality and effectiveness of national AML/CTF supervision within the EU MSs, including the variations covering the human and financial resources devoted to it (noting, for example, that "Germany indicated having allocated 15 persons to the supervision of the whole non-financial sector - about 1 million entities"); approaches to cross-border situations; and methods to identify risks and to apply the risk-based approach to supervision.[39] These divergencies, along with the "lack of clarity in the powers that supervisors should have results in a variation of approaches to similar situations, and hampers supervisors' ability to ensure that AML/CTF rules are applied consistently across the EU," thus raising the risk of risk regulatory arbitrage.[40]

To remedy these shortcomings, the Commission proposed the creation of an integrated AML/CTF system of national AML/CTF supervisory authorities at the EU level that would guarantee "consistent high-quality application of the AML/CTF rulebook throughout the EU" and promote "efficient cooperation between all relevant competent authorities." Alternatively, as noted by one EU official interviewed (Interview 8):

> We are elevating supervision at the EU level with the objective of making it much more effective because the scattered national approach was not effective. After all, terrorist activities are not carried out just in Paris or in Belgium. We know that often at the core of their activities, it's a team of people active in several Member States. If prevention starts not just at the national level, you're much more effective.

At the center of this system will be the new EU AML/CTF Authority (AMLA) with two main areas of activity: AML/CTF supervision and supporting the national FIUs.

According to Regulation 2024/1620, which established AMLA, it will have a coordination role in the non-financial sector and it will directly supervise financial sector entities that are exposed to the highest risk of money laundering and terrorism financing. National supervisors and FIUs will remain in place but AMLA should facilitate cooperation, "including by establishing standards for reporting and information exchange, supporting joint operational analyses, and by hosting the central online system, FIU.net." AMLA should have around 250 staff members when it is fully operational in January 2028, and an annual budget of EUR 92 million, of which 30% will come from the EU budget and 70% will come from fees paid by a range of financial sector EU Obliged Entities directly supervised by AMLA.[41] According to a KPMG report, "AMLA's initial policy work will likely be informed by a horizontal survey of existing AML rules and supervisory practices across Europe. AMLA will also draw on the ECB's experience in setting up the Single Supervisory Mechanism: a number of senior ECB staff have already been seconded to the EC's AMLA Task Force that is preparing the ground for the new authority."[42]

Insufficient/Ineffective Detection of Possible Money Loundering and Terrorist Financing

The third major problem identified by the Commission concerns primarily "insufficient detection of suspicious transactions and activities by FIUs, particularly in cross-border cases" and "inadequate feedback from FIUs to private sector entities acting as obliged entities, in particular given the cross-border nature of many transactions."[43] Both of these shortcomings are related to the ever-growing number of suspicious transactions and activities reported by the private sector (see Table 2) while "the capacity in FIUs to cope with these volumes of data has not increased commensurately, and only a couple of FIUs reported to the Commission having witnessed substantial increases in their budget and staffing."[44] As a consequence, for example in 2019, the overburdened national FIUs were able to actively follow up only less than half of submitted STRs, and only "about 70 transactions were suspended on average (for an average total value of 60 million EUR). Extrapolating these averages to all FIUs, these figures indicate that, at best, the ratio between suspicious flows stopped at an early stage and estimated proceeds laundered within the EU is 1:100."[45] At the same time, FIUs were also unable to provide elaborate feedback on trends and typologies in money laundering tailored to specific categories of obliged entities:

> Left without information on trends in money laundering and terrorism financing, private sector entities are unable to detect those activities and transactions that are genuinely suspicious and to improve the quality of the information reported. As such, reporting has become an automated process, leading to an increase in reports of no significance (the so-called 'false positives'). Indications confidentially provided by credit institutions to the Commission estimate that between 50% and 75% of reports submitted to FIUs would fall under this category. The sector also shared that based on existing studies the level of false positives could be even higher, [pointing that only] around 10% of all STRs submitted as being of use.[46]

Moreover, in the future, TF techniques are likely to become more sophisticated, so CTF will require "an understanding of the risks, which the current level of feedback

Table 2. Number of suspicious transactions and activity reports (STR) and the number of reports related to terrorist financing (RRTF).

		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Austria	STR	?	?	?	360	426	658	1045	1059	1385	2211	2115	2118	1490	1673	1793	2046	3043	2778	?	?
	RRTF	?	?	?	12	19	15	23	23	42	?	?	?	76	61	?	?	?	?	?	?
Belgium	STR	?	?	?	?	10148	9938	12830	15554	17170	18673	20001	21000	22966	27757	?	?	?	?	?	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	126	154	?	?	?	?	?	?
Bulgaria	STR	?	?	?	?	680	374	431	591	883	1460	1428	1821	2233	2284	?	?	?	?	?	?
	RRTF	?	?	?	?	0	2	1	1	0	3	?	?	?	?	?	?	?	?	?	?
Czech Republic	STR	?	?	?	?	?	3480	2048	2320	2224	1887	1970	2191	2721	3192	?	?	?	?	?	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?
Croatia	STR	?	?	?	?	?	2891	2858	2327	635	615	334	397	577	698	?	?	?	?	?	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	2	3	?	?	?	?	?	?
Cyprus	STR	?	?	?	?	?	179	204	258	428	510	526	610	809	673	?	?	?	?	?	?
	RRTF	?	?	?	?	0	0	4	3	1	0	?	?	0	0	?	?	?	?	?	?
Denmark	STR	?	?	?	?	450	876	1349	1553	2095	2316	3020	4511	5080	7199	?	?	?	?	?	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	86	56	?	?	?	?	?	?
Estonia	STR	1829	1073	1293	1430	1697	2601	5272	13861	16999	13655	13536	12157	11224	11204	8204	5525	5418	5614	6164	?
	RRTF	?	?	?	?	?	?	?	1611	1461	1000	1153	1732	1858	2321	2046	642	471	188	367	?
Finland	STR	?	?	?	?	?	9975	17658	22752	27836	21490	28373	18677	28157	23062	?	?	?	?	?	?
	RRTF	?	?	?	?	0	0	0	0	0	0	?	?	10	13	?	?	?	?	?	?
France	STR	4640	8719	9019	10842	11553	12047	12469	14565	17310	19208	22856	26011	27477	36715	43231	62259	68661	76316	95731	?
	RRTF	?	?	?	?	?	?	?	?	9	6	1	2	0	7	2	0	2	1	1	?
Germany	STR	7284	8261	6602	8062	8241	10051	9080	7439	9046	11712	13544	15496	20716	25980	32008	45597	59845	77252	114914	?
	RRTF	?	90	127	114	104	59	90	65	98	124	194	242	208	323	615	?	?	4516	6253	?
Greece	STR	?	?	?	?	1057	1236	1179	1952	2304	2982	3507	3923	4071	6288	?	?	?	?	?	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?
Hungary	STR	?	?	?	?	11382	9475	10456	10091	5683	7486	6776	8304	12855	9618	?	?	?	?	?	?
	RRTF	?	?	?	?	3	2	5	12	7	?	?	?	2	4	?	?	?	?	?	?
Ireland	STR	?	?	?	?	?	10403	11145	14505	14400	13416	11168	12390	15242	18302	?	?	?	?	?	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	586	618	?	?	?	?	?	?
Italy	STR	?	?	?	?	9057	11451	11724	14602	18822	26961	30447	59862	64601	71758	?	?	?	?	?	?
	RRTF	?	?	?	?	478	480	262	316	366	222	?	?	131	93	?	?	?	?	?	?
Latvia	STR	?	?	?	?	16234	31840	39877	36418	28492	28499	32649	37887	17168	17041	?	?	?	?	?	?
	RRTF	?	?	?	?	30	6	3	7	20	10	?	?	3	0	?	?	?	?	?	?
Lithuania	STR	?	?	?	?	259	153	115	203	213	222	255	245	393	328	?	?	?	?	?	?
	RRTF	?	?	?	?	?	1	0	0	0	?	?	?	0	0	?	?	?	?	?	?
Luxembourg	STR	?	?	?	?	?	574	646	1008	1368	4915	8306	11436	4891	7238	?	?	?	?	?	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?	?
Malta	STR	?	?	?	?	74	78	63	69	63	73	107	142	143	202	?	?	?	?	?	?
	RRTF	?	?	?	?	1	0	1	1	2	0	?	?	0	0	?	?	?	?	?	?
Netherlands	STR	?	?	?	41003	38481	34531	45656	54605	32100	29795	23224	23834	25321	29382	409659	53533	40546	57950	39544	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	?	142	177	543	460	560	429	?
Poland	STR	231	614	965	1397	1526	1898	1920	1815	1862	1997	2527	2427	3265	3637	3520	4198	4115	3622	4100	?
	RRTF	?	?	?	?	?	412	199	?	?	?	?	?	?	?	?	?	?	?	?	?

(*Continued*)

Table 2. Continued.

		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Portugal	STR	?	?	?	?	578	584	724	568	634	703	1699	2168	7554	9107	?	?	?	?	?	?
	RRTF	?	?	?	?	0	0	0	0	0	0			?	?	?	?	?	?	?	?
Romania	STR	?	?	?	?	?	3196	2574	2338	2771	3477	4116	4637	4170	?	?	?	?	?	?	?
	RRTF	?	?	?	?	?		?	?	?	?				?	?	?	?	?	?	?
							?														
Slovakia	STR	?	?	?	?	?	1571	1943	2274	2686	2470	2882	3650	3886	3928	?	?	?	?	?	?
	RRTF	?	?	?	?	15	14	10	16	56	55			80	79	?	?	?	?	?	?
Slovenia	STR	?	?	?	?	116	165	192	248	199	233	327	559	600	480	?	?	?	?	?	?
	RRTF	?	?	?	?	?	?	?	?	?	?			7	7	?	?	?	?	?	?
Spain	STR	?	?	?	?	?	2251	2783	2380	2764	3172	2975	3059	4025	4637	?	?	6794	8681	9363	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	47	22	?	?	?	?	?	?
Sweden	STR	?	?	?	?	?	6353	6040	13048	9137	12218	11461	9436	11185	9182	10170	13322	16551	19306	21709	?
	RRTF	?	?	?	?	?	?	?	?	?	?	?	?	40	50	?	?	?	?	?	?
United Kingdom	STR	?	56023	94718	154536	195702	213561	220484	210524	228834	240582	247601	278665	316527	354186	381882	419451	634113	463938	478437	573085
	RRTF	?	?	?	?	?	?	?	956	703	599	?	?	856	1342	1899	?	2026	2688	1908	1897

Note: ? indicates no data is publicly available. In case of data discrepancy, figures from national FIU reports were used.
Source: Compiled by the author based on data from reports from national FIUs (Europol, 2017; Unger et al., 2013).

by FIUs and cooperation among all authorities cannot grant."[47] As drivers of these shortcomings, the Commission explicitly highlighted the divergence of reporting templates and methods to identify suspicious activities by national FIUs (and the non-binding nature of the EU existing template); approaches to analyzing the reports (including the use of different software and Artificial Intelligence (AI) tools); approach to data sharing in terms of what is shared (whether it is the report as submitted by the obliged entity itself or rather the analysis performed by the FIU) and when it is shared (i.e. automatically when the report contains a reference to a MSs or only when that report is relevant). Moreover, although recent major AML and TF cases reported in the EU had a cross-border dimension, their detection is "left to the national FIUs and to cooperation among them. While this reflects the operational independence and autonomy of FIUs, the absence of a common structure to underpin this cooperation leads to situations where joint analyses are not performed for lack of common tools or resources."[48] Finally, the report also noted that "some FIUs failed to engage in a meaningful dialogue with obliged entities by giving quality feedback on suspicious transaction reports."[49] This was confirmed by an interviewed Commission official: "Often, there is no feedback from FIU, so obliged entities simply don't know whether they do well or not or not." (Interview 8) The quantity and quality of feedback are also often related to differences in the types of FIUs and their powers (administrative, law enforcement, judicial), which differ across the EU MSs (Interview 2). Moreover, as another interviewed EU official noted, FIUs themselves need, yet often lack, feedback from law enforcement agencies regarding what STRs are useful for criminal investigations and why (Interview 6).

To remedy these shortcomings, the Commission proposed harmonization of formats and templates used by FIUs to render cooperation between them more efficient and a central coordination role of a formalized EU FIUs' platform. The new EU AMLA agency will support national FIUs in the conduct of joint analyses and more targeted reporting of suspicious transactions and activities across the EU, but will not be an FIU itself and will not replace national FIUs.[50] According to one interviewee, "I really insist AMLA is not a watchdog. AMLA is really something that must facilitate the emergence of a truly EU approach in the fight against the financing of terrorism." To achieve this, "AMLA should also conduct peer reviews of national FIUs to identify best practices and to mediate disagreements between them." (Interview 8) This should help to bring all national supervisors up to the level of the best performers. Moreover, "the new framework is giving a legal basis for the establishment of PPPs and public-private sharing of information, with a number of safeguards that pertain, of course, to the protection of private data. So that nobody can come to the private entity and say: you shouldn't have shared that information." (Interview 8)

Major Challenges Addressed by New EU CTF Measures: A Preliminary Assessment of Feedback Loops

Although it is too early to make authoritative judgments about the impact of the aforementioned revisions of the EU CTF framework, it is possible to a) assess their scope and breadth vis-à-vis the existing state of the art in the antecedent literature, and b) point out unaddressed shortcomings and challenges. The revisions of the existing

EU CTF framework do clearly identify and attempt to address a number of important issues that have been discussed in the extant research on the fight against terrorist financing since 9/11. These include two highly problematic and interrelated practices of defensive overreporting and de-risking; and delays and shortcomings stemming from both legal transposition and practical implementation of EU-level CTF measures.

Overreporting

Previous studies have demonstrated that the public authorities have provided the private sector with only vague clues for detecting customers and/or transactions that may be linked to terrorist financing while demanding that FIs put in place elaborate and costly surveillance mechanisms and procedures. This is primarily because EU CTF measures are based on the logic of risk assessment, which is rather problematic when it comes to the threat of terrorism that is extremely difficult to quantify for individual obliged entities, especially the financial institutions when it comes to monitoring the billions of daily financial transactions. Moreover, extant studies also stress that private entities are primarily profit, rather than security, maximizers.[51] As a consequence, due to the substantial penalties for non-compliance and reputational concerns, private FIs have resorted to the practice of defensive compliance with the public CTF regulations by (over-) reporting even marginally suspicious transactions to "cover their back." This reporting "efficiency" has, however, further diminished the already dubious effectiveness of the CTF regime. In addition to placing a substantial burden on the public FIUs which have to process a growing amount of data of doubtful value, the increasing number of reported transactions serves to further bury suspicious transactions actually indicative of terrorist financing, which represent only a tiny share of the reported suspicious transactions reports (STRs, see Table 2). This danger was also confirmed in an IMF study, which found the over-reporting "cover your ass" policy "fails to identify what is truly important by diluting the information value of reports."[52] Moreover, the relation between the height of the sanctions imposed on FIs for non-compliance and the effectiveness of the whole AML process until conviction can be depicted in a Laffer curve: if sanctions grow too high, their impact on effectiveness is negative.

To what extent the new EU CTF framework can remedy these shortcomings remains to be seen. In line with the aforementioned findings from academic studies, the Commission explicitly recognized that efficiency is not the same as effectiveness: "The primary objective of the present proposals is to increase the effectiveness of the EU AML/CTF regime, with the aim of reducing the amount of criminal ML/FT in the European Union, rather than simplification and improved efficiency."[53] However, as noted by a preliminary assessment by EY, on the one hand, "[i]ntroducing harmonized EU AML rules has the potential to close some gaps and loopholes in the EU regime previously exploited, deter regulatory shopping, and also facilitate the streamlining of compliance functions, bringing many efficiencies with it." On the other hand:

> Aspects of the proposals as currently written could result in unintended consequences, which could detrimentally impact risk management. For example, the proposed outsourcing prohibitions and the introduction of a minimum five-year period for periodic review are areas where amendments to the text would be beneficial to achieve absolute clarity. For smaller FIs, with less well-established and resourced compliance functions, the extent of changes could be particularly impactful and expensive to implement.[54]

As noted by a private sector interviewee (Interview 5), "[we] commend the EU for its outreach to seek our input and collaboration for new [AML] legislation, but final forms of EU initiatives rarely resemble the spirit in which they began." Another interviewee argued that in order to improve the quality of STRs, it would be more beneficial if the EU or the new AMLA helped the obliged entities with proper detection *via* red flag manuals for different financial sectors (Interview 7). Overall, it appears that the drafters of the AMLD VI package have still not fully grasped that private entities are primarily profit, rather than security, maximizers. In the long run, this is arguably the single biggest challenge to involving private companies in all areas of counterterrorism. It cannot be easily fixed just by improving the methodology, harmonizing STR templates, or enhancing the information flows, although these may, over time, generate a modicum of trust between the relevant public and private sector actors.

At least one of the powers of the new EU agency can, however, make at least some difference here—the direct supervision of financial sector entities that are exposed to the highest risk of TF. At least implicitly, this appears to recognize the limits of public-private partnerships when it comes to dealing with contemporary terrorist financing—as profit maximizers, at least some private sector actors are inherently likely to pursue different options (i.e. take certain security risks simply because it is more profitable than actually addressing them) than the public agencies, who as security maximizers are expected and tasked with ensuring the maximum level of security possible based on the precautionary principle of "better safe than sorry." This was also recognized by an interviewed Commission official who participated in the drafting of the AMLD VI package:

> Hundreds of thousands of STRs are reaching FIUs. This is truly an issue because you cannot endlessly increase the resources inside the FIUs and there must be a shared competence, a shared responsibility. It's not that you're a private entity and you just load your PDF with information. That's not how it works. You're doing business, your business can be badly used. Your responsibility is not simply met by sending thousands of reports to FIU and you consider you're done with your job. It's not like that. But at the same time, we recognize that for some private sector entities, it's hugely difficult to say I have a risk or I don't have a risk. (Interview 8)

Much of the immediate impact of the new EU Agency will, therefore, depend on the selection criteria for the high-risk obliged entities that it should directly supervise, i.e. whether it will be a sufficiently large number of entities right from the outset to guarantee EU-wide coverage. According to a member of the Supervisory Board of the ECB, however, "the assessment and selection criteria for entities to be subject to AMLA supervision as currently proposed might not produce such a meaningful pool of entities." Based on the ECB's experience, "more objective criteria based on risk factors, such as certain aspects of cross-border activities, would be preferable. These criteria should be as objective as possible, not disclosing risk scores that might stigmatize the selected entities."[55]

De-Risking

Existing research has documented that for at least some private actors, both financial and non-financial, it can be easier and/or cheaper not to provide services to certain

customers rather than having to perform all the required complex and, thus also, costly CDD checks. As also noted by the European Banking Authority (EBA),[56] the current AML/CTF framework's narrow focus on compliance with customer identification and verification requirements has indeed contributed to certain groups of customers, in particular vulnerable ones without a regular income or fixed address, such as the homeless, migrants and students, being excluded from access to and use of payment accounts with basic features. Recent cases where financial institutions chose to de-risk by ceasing to offer certain services instead of managing the risks associated with specific sectors or customers have also negatively affected economic investments in some EU MSs and, as noted by several stakeholders including the European Banking Federation, they might also obstruct financial inclusion.[57]

The Commission expects that the new "single EU rulebook" and AMLA's oversight should eliminate some of the incentives for de-risking of entire groups of customers inside the EU. According to one interviewed Commission official (Interview 8), "[w]here AMLA will directly supervise an entity, it will, as part of its supervisory activities, look at how and why de-risking is done in that entity. And AMLA will be able to say that it wants to carry out a thematic review of this practice. To look at whether we do what's best in that area, and check what private entities are doing." However, the CTF regime is a global one, and the current EU CTF measures have already had severe repercussions on the informal remittance systems ("hawalas") that are crucial for the livelihoods of millions of people outside of the EU in developing countries. Because they rely upon "ethnic-based trust" rather than on formal legal structures to maintain the integrity of the system, "they were singled out from early on as a crucial target in the policies against al Qaeda, against advice and warning that such measures would not work against networks and mechanisms based on trust and rooted in different socio-economic, political and cultural contexts."[58] Thus, as Vlcek noted, the important point to keep in mind "is that constraining the informal banking system has the potential of a far more detrimental impact upon developing states than it has for any likelihood to identify and isolate terrorists."[59] The recent EU CTF updates, however, do not genuinely take into account their possible impact on informal banking systems.

Problematic Transposition/Implementation of EU-Level CTF Measures

Regarding the drafting and adoption of the EU's own legal measures, these CTF measures are worthwhile only if they make a difference. The Commission has acknowledged the substantial implementation delays of the two most recent Fourth and Fifth MLDs. According to available research, however, these are not unique. The Third MLD, for example, was to be transposed before 15 December 2007, but as of June 2010, two EU Member States (France and Ireland) had still to finalize the transposition process. Moreover, infringements for non-transposition previously also had to be initiated against Belgium, Spain, Poland, and Sweden (Council of the European Union 10182/10). Similarly, when it comes to transposition into national laws, the Commission's 2020 Action Plan (COM(2020) 2800) was not the first one to argue that EU MSs tend to apply EU AML/CTF rules "in a wide variety of different manners," and these diverging interpretations of those rules lead to loopholes in the EU system, which criminals and

terrorist can exploit. Similar language was used by the Council when it approved the Action Plan in November 2020, arguing that the EU's AML/CTF framework "needs to be significantly improved" due to "major divergences" and "serious weaknesses" in enforcement at MSs' level.[60] Along with the European Banking Federation[61] and the European Parliament, the Council warned that the current fragmented legislative, institutional, and regulatory landscape across the EU provides too many incentives for regulatory shopping, i.e. it "enables individuals, organisations and their financial intermediaries to carry out illegal activities where supervision and enforcement are deemed weaker and/or more lenient."[62] Alternatively, as aptly summarized by one interviewed EU official (Interview 8): "The authorities in the MSs have to be really consistent because if you can have different interpretations of rules, then cooperation does not work."

The adoption of new EU CTF measures in the form of directly applicable Regulations, including rules and requirements imposed directly on obliged entities, could eliminate many of the legal transposition issues that accompanied the previously common use of Directives, which need to be implemented by MSs. Previous studies, however, offered additional explanations for the EU MSs' imperfect implementation and transposition record. There are several explanations for the imperfect implementation record. For example, according to the Howell & Co. report commissioned by the European Commission, some reasons are structural, resulting from the slow speed of political and administrative planning processes in EU MSs and problems integrating new legislation into existing laws. A related complicating factor, both at the national and the EU levels, is the institutional complexity of initiatives to fight TF. At the national level, responsibilities for CTF issues are often spread across four or five ministries, and coordinating mechanisms are not always effective. In addition, CTF policies are enmeshed in broader issues, such as international military and security issues or financial integrity issues, which often involve input for both policy formulation and execution from the private sector (see above). Coordination, therefore, "has not only to be within the public and private sectors but between sectors as well. This at least doubles the complexity of the situation."[63] Moreover, according to Müller-Wille, the problem of managing complexity is compounded by the legal limits to the exchange of information between agencies, the secretive character of security and intelligence services, as well as competition and distrust between various institutions, both at the national and EU levels.[64]

In this context, it is important to stress that implementation of EU policies is a process that goes beyond the initial stage of the legal transposition of the EU law into national legislation—the subsequent practical application of the respective new mechanisms by national authorities, and in case of CTF also the private sector obliged entities, is at least as a crucial part of the implementation process. While specific data on the actual policy outcomes of the EU counterterrorism policy is often lacking, the available academic studies have revealed that when it comes to the practical use of transposed EU legal measures and cooperation through EU agencies, promises and public rhetoric of national and EU politicians are one thing, and the deeds of national counterterrorism agencies are quite another thing. The national experts' reluctance to use EU networks and mechanisms is primarily due to the traditional practitioner's preference for more established bi- and multi-lateral channels; significant variations of

MSs' cultural and legal traditions in the security field; bureaucratic and technical blockages due to administrative weaknesses of especially the smaller MSs that are compounded by coordination problems between various government ministries, national security structures and local agencies involved in counterterrorism; as well as due to the lack of a shared perception of the terrorist threat across EU MSs.[65] As also noted by one interviewed EU official (Interview 8), "[t]here is a larger problem of different cultures of information sharing. In the past, it seemed almost like there was a problem that in different MSs, there are different types of financial intelligence – administrative, law enforcement, and sometimes I would say even intelligence-led. And they also have different competencies."

Major Challenges Not Addressed by New EU CTF Measures: An Incomplete Cognitive Shift?

All of the aforementioned revisions of the EU CTF framework concern only the preventative risk-based approach that aims at the prevention of TF by the setting of specific obligations for financial institutions and certain non-financial institutions and professionals. In contrast, as briefly acknowledged by the Commission, "the current reform does not touch aspects pertaining to investigations and prosecutions of criminal cases, nor freezing/confiscation of criminal assets."[66] In other words, as also confirmed by the interviewed EU officials (Interviews 6 and 8), there will be no changes pertaining to the repressive aspects of the EU CTF framework. Although the Commission asserted that "planned changes to the preventative framework will contribute to the quality and relevance of the information provided to law enforcement authorities and increase the rate of transaction freezing in view of the opening of a case,[67] the sole focus on a preventative risk-based approach is far for ideal given a number of shortcomings of the repressive approach that have been documented in the extant literature. Moreover, prior research also points to several important in-build shortcomings of the preventative risk-based approach that the new EU CTF framework also does not address.

Repressive Measures

First, the smart sanctions model may not be appropriate for addressing contemporary terrorist financing. A key problem with the current blacklisting approach to CTF is due to the fact that blacklists themselves are inherently both under- and over-inclusive. This reflects the difficulties of providing accurate information precisely identifying a particular party or entity as a sanctions target:

> If a precise match with a government blacklist is required, targeted individuals and entities might escape the controls due to minor variations in the names. Conversely, if not enough rigor is applied in the matching process, the blacklisting system can easily be overwhelmed by the number of false matches. A similar issue arises when common names appear on the blacklist, generating a large number of unintended matches.[68]

The false matches problem increases every year because "the designation lists of those suspected of providing support to terrorist organizations in the UN, the European

Union and particular countries (notably the USA) have grown so long and with so many common names as to offer limited assistance and pose issues of due process and enforceability."[69]

Second, the current CTF blacklisting regime is neither smart nor targeted enough because the same sanction measures are applied against the direct and primary targets (such as Osama bin Laden) and against a party that only incidentally dealt with or supported the real target of the program.[70] Moreover, if terrorists like Osama bin Laden could recruit people willing to die on his behalf, he would have no problem getting them to open bank accounts.[71] The implication is that technological solutions in the fight against terrorist financing "may be easily circumvented by mundane methods using the large pool of supporters attracted to the declared goals of a terrorist organization." All they need to do is to add "to their "normal" pattern of financial transactions … a small monthly transfer to another account, using cash provided to them anonymously."[72] It is, therefore, unsurprising that some experts have even argued that there is "no independent evidence whatsoever that the blacklisting technique has any significant effect on limiting terrorist financing,"[73] while others have pointed out that the "political statement" blacklisting approach can actually make the task of tracing money flows more difficult.[74]

Third, it is important to note that practical implementation of the EU's repressive CTF measures has been repeatedly challenged in courts. Several cases challenged on both legal and human rights grounds the fact that in the case of Al-Qaeda, the EU simply adopted an external terrorist list that was established by the UN 1267 Committee, whose listing/de-listing procedures the EU cannot control.[75] A number of individuals and entities that were placed on the EU's autonomous terrorist blacklist established by Common Position 2001/931/CFSP have also launched legal challenges, and in a number of cases, the EU courts have ruled in their favor. In response, the EU was forced to gradually reform its procedures for listing and de-listing. Most importantly, whereas prior to the *PMOI* judgment of the European Court of Justice,[76] no mechanism existed for those proscribed to either receive an explanation for their inclusion or to challenge that explanation, the list is now reviewed every six months and the Council has to be informed *via* a "statement of reasons" of the specific information that forms the basis for the Council Decision (14612/16). It is important to note, however, that even these adjustments have not entirely stemmed the flow of new cases, as witnessed in the Hamas and the Liberation Tigers of Tamil Eelam (LTTE) cases.[77] Even the European Commission acknowledged that further important unanswered questions include the criteria that should be applied and the evidence that is needed for administrative freezing, the relation of administrative freezing to judicial freezing, seizure and confiscation, and matters of due process.[78]

Preventive Measures

First, the AML approach to CTF is too much based on US terrorist threat analysis at the time of the 9/11 attacks. As such, it may not be an appropriate basis for the EU CTF strategy:

> [T]he problem is that the FATF reporting regime, especially the 9SR regime, promoted by the EU is actually an OC [organized crime] regime, not a specific TF [terrorist financing]

> regime. This is because it is based on the model adopted by the U.S.A in reaction to the 9/11 attacks: The U.S. saw similarities between AQ [Al-Qaeda] operations and OC in the U.S.A and adapted domestic instruments developed in the fight against OC. However, in the absence of a fuller analysis, it is not certain that the threat in the U.S. can be compared to the threat in the EU, whose domestic terrorist groups, in particular, do not appear to fit into the same pattern.[79]

In other words, the FATF's recommendations may well represent rather ineffective CTF measures in the EU context because they are not specific to actual TF threats in EU MSs. As also noted by an EU Commission official: "Not all MSs are exposed to the same risk. So, naturally, also the contributions from the different FIU's are not the same." (Interview 8) This is not to deny that there can be substantial overlap between money laundering and terrorist financing, especially in cases of pre-9/11 terrorism, but for many of the post-9/11 terrorist groups and lone wolves, the standard organized crime concept of money laundering ("dirty" money coming into the ordinary economy to be "cleaned") may not apply. In fact, the pattern is often reversed:

> A large lawfully earned sum is transferred to a state where the target is situated, whereupon the sum is split into several working accounts used for preparing the terrorist act. Even this pattern may be lacking where the active cell is homegrown and has its own lawful sources of income. Their transaction records and account 'profiles' here will show few, if any, suspicious tendencies.[80]

As a consequence, the generally assumed CTF/organized crime analogy may not only be misleading, but counterproductive. This is because terrorism, which generally speaking seeks political objectives and money is therefore merely the means to an end, differs significantly from organized crime, whose primary objective is the money, or profit-making itself. Terrorist financing, therefore, differs from criminal money laundering in several critical ways: the direction of the related financial transactions, the tolerance for failure, the motivations of the participants, and the scale of the activity to be suppressed.

Second, there is a general consensus that given the global nature of contemporary terrorism, it is essential to ensure uniform international implementation of CTF measures. This is, however, inherently difficult given that the existing terrorist groups vary in their organizational form and, thus, also in the ways they raise, store, and move funds. Prior to 9/11, terrorism was financed on a national basis through criminal activities (protection rackets, bank robberies, etc.); and/or on a transnational basis through fundraising in states with sizeable diasporas for the armed struggle in the "home" state; and/or through states funding foreign groups as proxies for the achievement of their own foreign policy goals. After 9/11, however:

> [T]he advent of self-supporting 'nomadic terrorist networks' with global or regional, rather than separatist, goals, such as al-Qaeda, has added a new dimension to the problem. A nomadic group moves between jurisdictions and operates in different jurisdictions. It can obtain its financing in one region, but carry out operations by means of active cells stationed in, or transferred to, another region.[81]

It is, therefore, clear that one financial safe haven is enough to wrack any international CTF efforts, whose strength and effectiveness are determined by the weakest link in the international cooperation frameworks. In this context, it is important to

reiterate that the actions taken by the EU and its MSs are just one of several parallel multilateral CTF processes, which interact and overlap in numerous ways.

Third, even the Commission has belatedly recognized the growing phenomenon of crude, small-scale, and low-cost attacks planned at short notice (European Commission COM(2017) 608 final), which was also singled out by two interviewed EU officials (Interview 1, Interview 2). In this context, it is troublesome that even the biggest banks with the best-automated interdiction software acknowledge that some "leakage" is inevitable: "Large banking institutions handle millions of transactions each day and, despite state-of-the-art interdiction systems, frequent staff training and the institutions best efforts, it is statistically inevitable that a large bank will have inadvertent violations of [the] sanctions."[82] At the EU level, according to an interviewed Commission official, "public prosecutors showed us that what is recovered is even less than what is invested in the system." At the same time, however, the official argued that:

> So, would you conclude that we should stop investing [in CTF measures]? No, because if you stop investing then illicit activities are going to increase for sure. But how can we make CTF more effective? I know the horrible consequences of attacks that cost a very low amount of money. So, what can we do from the preventative side? My answer is really better cooperation between FIUs and obliged entities, better sharing of information." (Interview 8)

As discussed above, however, such cooperation has often been lacking thus far.

Fourth, in addition to the support for the CTF efforts of the UN and FATF, and other international organizations such as the International Monetary Fund, the Council of Europe or the Gulf Council, the EU also seeks cooperation with several key external partners, in particular the United States. Crucially and controversially, the August 2010 EU-US Agreement on the Terrorist Finance Tracking Programme (TFTP) allows the transfer to the US Treasury—"under strict data protection conditions" and "on a case-by-case basis" pending verification by Europol "as to its necessity for fighting terrorism"—of certain categories of data regarding bank operations stored in the territory of the EU by a designated provider of financial payment messaging services.[83] The Commission has also explored the pros and cons of setting up a similar EU-based system. In 2013, it concluded that duplicating the TFTP would not be proportionate or bring added value. In 2016, following the Paris and Brussels attacks, it called for another assessment of "the possible need for complementary mechanisms to the TFTP to fill possible gaps (i.e. transactions which are excluded from the EU-US TFTP agreement – notably intra-EU payments in Euro – and may not be possible to track otherwise)" (COM(2016) 50 final). This call, however, was not picked up in any of the subsequent EU CTF reform proposals. Thus, in practical terms, according to an official US review of TFTP, some 40% of the database searches performed by the US Treasury between January 2016 and November 2018 were on behalf of EU MSs or Europol. According to the review chair, "[t]he EU has effectively deputized the US Treasury to perform counterterrorism searches of European data," thus bypassing the need for a European version of the program and relying on the US to conduct sensitive and controversial searches of European data."[84] Concerns about data protection were also raised regarding the new EU CTF framework, especially when it comes to data sharing and data management both by the public FIUs and privately obliged entities.[85]

Fifth, the antecedent literature cautions that the proliferation of new counterterrorism actors at the EU level should not be assumed uncritically as having, in principle, a direct and substantial contribution to a more robust counterterrorism response in practice. According to a report for the European Parliament assessing all of the EU's counterterrorism policies, there are already too many actors involved in the design and implementation of this policy area. Moreover, their tasks at times overlap, thus making it unclear who is in the lead.[86] Similarly, as long as it is uncertain whether extra layers of communication systems, databases, and practitioners' meetings at the EU level are really the recipe for superior results, it seems reasonable to argue that more EU action does not necessarily always mean better when it comes to fighting terrorism in Europe.[87] These concerns were echoed by an interviewed Council Official (Interview 4), who argued that "instead of establishing new agencies like AMLA, it would be better to strengthen the mandates of already existing agencies, like Europol. We need more actual financial investigations, not more analytics." Another interviewed Commission Official confirmed that even within the European Commission, there was a debate about alternatives to setting up a new EU agency, including Europol and OLAF (Interview 6).

Main Findings

The recently adopted EU CTF reforms mark a significant step forward in the EU efforts to fight terrorist financing. The new measures respond to long-standing criticisms of insufficient coordination and inconsistencies among EU MSs, which have hindered the effectiveness of previous CTF efforts. The establishment of the new EU Anti-Money Laundering and Countering the Financing of Terrorism Authority, in particular, represents an unprecedented step in the EU's efforts to combat terrorist financing. Before AMLA's founding, the EU's CTF measures were fragmented, with uneven implementation across EU MSs due to differing national practices and a lack of centralized oversight. This fragmentation exemplified institutional inertia and path dependency, which the creation of AMLA aims to overcome. As such, following Andreeva's conceptualization of a paradigm shift in EU counterterrorism, the establishment of AMLA can be seen as a response to critical junctures, notably the terrorist attacks in Paris and Brussels and a series of high-profile financial scandals (e.g. Danske Bank and Wirecard). These events highlighted the inadequacies of existing frameworks and created the urgency for significant reform, breaking path dependencies in EU CTF measures.

AMLA's creation, however, also reflects a major, if belated, shift in the EU's cognitive frame *via* the recognition of the shortcomings of previously adopted EU CTF measures. Specifically, the creation of AMLA signifies the EU's recognition of the need for stronger coordination and harmonization across EU MSs, aiming to close the gaps in enforcement and ensure a more consistent EU-wide application of CTF rules. By introducing a "single EU rulebook" and granting AMLA supervisory powers over high-risk obliged entities, the EU seeks to tackle regulatory fragmentation, enhance the monitoring of financial activities, and improve information sharing between public and private sector actors. As such, the establishment of AMLA underscores an ideational shift in the EU's understanding of terrorism financing as a transnational issue

requiring harmonized, cross-border solutions—from relying primarily on decentralized, MSs-led implementations of AML/CTF rules to recognizing the need for at least some supranational oversight.

This shift was aptly exploited by supranational policy entrepreneurs, especially the European Commission, who played a crucial role in pushing for the establishment of AMLA. They leveraged the aforementioned critical junctures and new cognitive frames, emphasizing that the lack of consistent rules and enforcement mechanisms across MSs that undermined the EU's ability to combat terrorism financing effectively. At the same time, however, they attempted to balance the need for EU-wide consistency with respect for existing national structures, aiming to streamline coordination across the many levels of CTF governance. AMLA, therefore, addresses the complexity of multi-level CTF governance by establishing a centralized authority with direct supervisory powers over high-risk obliged entities while maintaining roles for national Financial Intelligence Units. As such, the creation of AMLA can be interpreted as a paradigmatic shift in EU counterterrorism policy, embodying a transition towards a more centralized and harmonized approach to tackling terrorist financing, driven by critical junctures and facilitated by both ideational and institutional innovation. Its establishment marks a clear departure from prior EU CTF practices by addressing their key deficiencies, such as regulatory fragmentation, inconsistent supervision, and ineffective information sharing.

However, despite the ambitious nature of the AMLA reform package, several key challenges remain. The most pressing one is the ongoing issue of divergent national practices, which has historically plagued all EU counterterrorism efforts. While the AMLA aims to harmonize CTF approaches across MSs, ensuring that all countries comply with the same high standards, differences in legal frameworks, institutional capacity, and national enforcement priorities will likely continue to pose major obstacles. The history of delays in the transposition of EU legal CTF measures at the national level, which goes beyond the mere legal transposition, suggests that ensuring uniform implementation will remain a complex and ongoing challenge. Moreover, the new EU CTF measures will continue to face several difficulties in addressing specific operational challenges, such as defensive overreporting and de-risking by obliged entities from the private sector. When financial institutions submit large volumes of STRs to avoid penalties, they strain national FIUs, potentially burying genuinely suspicious activities under an avalanche of false positives. While AMLA's oversight role could improve the quality of reporting, the success of this approach depends on how effectively the new EU agency manages high-risk obliged entities and whether it can balance the need for detailed scrutiny with the avoidance of overwhelming FIUs. Similarly, the issue of de-risking—where financial institutions opt to cut off entire categories of customers to avoid compliance risks—has yet to be fully addressed. This practice, which disproportionately affects vulnerable groups, may continue unless the new framework creates strong incentives for private sector obliged entities to manage risks more effectively rather than simply avoiding them.

These limitations also highlight the ongoing need for further reforms integrating preventive and repressive CTF measures. However, the EU's recent ideational shift is incomplete since the repressive aspects of the EU's efforts to counter terrorist financing and their numerous long-standing shortcomings and challenges remain unaddressed.

Moreover, the EU's increased reliance on the preventive, risk-based approach—while essential for detecting and deterring terrorist financing—has several inherent limitations. In particular, the emphasis on financial surveillance and customer due diligence may not always capture the complexities of modern terrorist financing methods, particularly in the case of low-cost attacks. Some terrorist groups and lone actors in Europe have also increasingly relied on small-scale financial transactions that are difficult to distinguish from legitimate activities. This calls into question whether the EU's focus on large-scale financial monitoring will be sufficient to address the evolving nature of terrorist financing, particularly as these methods become more sophisticated. As such, it remains to be seen whether the AMLA reform package will generate enough positive feedback by improving compliance among private sector obliged entities. Without positive feedback from all relevant stakeholders, even the new AMLA will struggle to demonstrate the added value of EU-level action in countering terrorist financing.

List of Interviews

Interview 1: Anonymous EU Commission Official, online, 4 April 2024.

Interview 2: Anonymous EU Commission Official, Brussels, 5 June 2024.

Interview 3: Office of the EU-Counter Terrorism Coordinator, written response, 6 June 2024.

Interview 4: Anonymous EU Council Official, Brussels, 7 June 2024.

Interview 5: Anonymous Private Sector Obliged Entity, Wien, 11 June 2024.

Interview 6: Anonymous EU Commission Official, Wien, 12 June 2024.

Interview 7: Anonymous National FIU Official, Wien, 12 June 2024.

Interview 8: Anonymous EU Commission Official, online, 5 July 2024.

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Notes

1. Council of the European Union, "Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism," 2008, http://www.statewatch.org/news/2008/nov/eu-council-r-and-r-revised-15175-08.pdf.
2. Council of the European Union, "The Fight against Terrorist Financing," 2004, http://www.consilium.europa.eu/uedocs/cmsUpload/16089fight_against_terrorist_financing.pdf.
3. Thomas J. Biersteker and Sue E. Eckert, *Countering the Financing of Terrorism* (London: Routledge, 2007), 1.
4. Laura K. Donohue, *The Cost of Counterterrorism: Power, Politics, and Liberty* (New York: Cambridge University Press, 2008), 122.
5. Biersteker and Eckert, *Countering the Financing of Terrorism*, 2.
6. European Commission, "About AMLA - European Commission," 2024, https://finance.ec.europa.eu/financial-crime/amla/about-amla_en.
7. Michelle Frasher, "The EU's Anti-Money Laundering Regulation and Data Protection: Part II," February 22, 2022, https://iapp.org/news/a/the-eus-anti-money-laundering-regulation-data-protection-part-ii; Jeannette Gorzala, "AML Update," *BankArchiv* 69, no. 10 (2021):

703–9, https://doi.org/10.47782/oeba202110070301; Argyro Karagianni, "Ne Bis in Idem at the Intersection between Prudential and AML/CFT Supervision," *Review of European Administrative Law* 17, no. 2 (2024): 7–38; Georgios Pavlidis, "The Birth of the New Anti-Money Laundering Authority: Harnessing the Power of EU-Wide Supervision," SSRN Scholarly Paper, May 19, 2023, https://papers.ssrn.com/abstract=4571940; Markus Tiemann, "A Commentary on the EU Money Laundering Reform in Light of the Subsidiarity Principle," *Journal of Financial Regulation and Compliance* 32, no. 3 (2024): 372–78.

8. Christine Andreeva, *The Evolution of Information-Sharing in EU Counter-Terrorism* (Northampton, MA: Edward Elgar Publishing, 2023).
9. Christian Kaunert, "The Area of Freedom, Security and Justice in the Lisbon Treaty: Commission Policy Entrepreneurship?" *European Security* 19, no. 2 (2010): 169–89; John D. Occhipinti, "Still Moving Toward a European FBI? Re-Examining the Politics of EU Police Cooperation," *Intelligence and National Security* 30, no. 2–3 (2015): 234–58.
10. Raphael Bossong, *The Evolution of EU Counter-Terrorism Policy: European Security Policy After 9/11* (New York: Routledge, 2012).
11. Javier Argomaniz, *The EU and Counter-Terrorism: Politics, Polity and Policies after 9/11* (New York: Routledge, 2011).
12. Sarah Wolff, "The Mediterranean Dimension of EU Counter-Terrorism," *Journal of European Integration* 31, no. 1 (2009): 137–56.
13. Edwin Bakker, "Difference in Terrorist Threat Perceptions in Europe," in *International Terrorism. A European Response to a Global Threat?*, ed. Dieter Mahncke and Jörg Monar (Brussels: Peter Lang, 2006), 47–62; Christoph O. Meyer, "International Terrorism as a Force of Homogenization? A Constructivist Approach to Understanding Cross-National Threat Perceptions and Responses," *Cambridge Review of International Affairs* 22, no. 4 (2009): 647–66; Jörg Monar, "Common Threat and Common Response? The European Union's Counter-Terrorism Strategy and Its Problems," *Government and Opposition* 42, no. 3 (2007): 292–313.
14. Andreeva, *The Evolution of Information-Sharing in EU Counter-Terrorism*.
15. Thomas S. Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1962).
16. Andreeva, *The Evolution of Information-Sharing in EU Counter-Terrorism*.
17. Oldrich Bures, "EU's Fight Against Terrorist Finances: Internal Shortcomings and Unsuitable External Models," *Terrorism and Political Violence* 22, no. 3 (2010): 419–38.
18. The FIUs serve as national centers for receiving, requesting, analyzing, and disseminating suspicious transaction reports and other information regarding potential money laundering or terrorist financing. The FIUs in EU MSs are also linked through a computer network (FIU.net), which is partly funded by the Commission.
19. Mara Wesseling, "Evaluation of EU Measures to Combat Terrorist Financing," 2014, http://www.europarl.europa.eu/RegData/etudes/note/join/2014/509978/IPOL-LIBE_NT(2014)509978_EN.pdf.
20. Paul Carroll and James Windle, "Cyber as an Enabler of Terrorism Financing, Now and in the Future," *Journal of Policing, Intelligence and Counter Terrorism* 13, no. 3 (2018): 285–300; Emily Fletcher, Charles Larkin, and Shaen Corbet, "Countering Money Laundering and Terrorist Financing: A Case for Bitcoin Regulation," *Research in International Business and Finance* 56 (2021): 101387.
21. Robby Houben and Alexander Snyers, "Cryptocurrencies and Blockchain: Legal Context and Implications for Financial Crime, Money Laundering and Tax Evasion," Study requested by the TAX3 committee (Brussels: European Parliament, Policy Department for Economic, Scientific and Quality of Life Policies, July 2018), https://www.europarl.europa.eu/cmsdata/150761/TAX3%20Study%20on%20cryptocurrencies%20and%20blockchain.pdf.
22. Council of the European Union, "Council Conclusions on Anti-Money Laundering and Countering the Financing of Terrorism," November 5, 2020, https://data.consilium.europa.eu/doc/document/ST-12608-2020-INIT/en/pdf.
23. European Commission, "Commission Staff Working Document Impact Assessment Accompanying the Anti-Money Laundering Package: Proposal for a Regulation of the

European Parliament and of the Council on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing Proposal for a Directive of the European Parliament and of the Council on the Mechanisms to Be Put in Place by the Member States for the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing and Repealing Directive (EU)2015/849 Proposal for a Regulation of the European Parliament and of the Council Establishing the European Authority for Countering Money Laundering and Financing of Terrorism, Amending Regulations (EU) No 1093/2010, (EU) 1094/2010 and (EU) 1095/2010 Proposal for a Regulation of the European Parliament and of the Council on Information Accompanying Transfers of Funds and Certain Crypto-Assets," 2021, sec. 2.3, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021SC0190.

24. European Parliament, "A Comprehensive Union Policy on Preventing Money Laundering and Terrorist Financing—the Commission's Action Plan and Other Recent Developments," July 10, 2020, para. 22, https://www.europarl.europa.eu/doceo/document/TA-9-2020-0204_EN.html.
25. European Commission, "Commission Staff Working Document," 75.
26. European Commission, "Commission Staff Working Document," 55.
27. European Commission, "Commission Staff Working Document," 7.
28. European Commission, "Commission Staff Working Document," 7.
29. European Commission, "Commission Staff Working Document," 23.
30. European Commission, "Commission Staff Working Document," 15.
31. European Commission, "Commission Staff Working Document," 36.
32. European Commission, "Commission Staff Working Document," 16–19.
33. European Commission, "Questions and Answers: AML/CFT," Text, Questions and Answers: Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT), July 20, 2021, https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_3689.
34. European Commission, "About AMLA—European Commission."
35. Benedict Wagner-Rundell, "EU Anti-Money Laundering Authority (AMLA): Approaching the Finish Line," KPMG, December 2023, https://kpmg.com/xx/en/our-insights/ecb-office/eu-anti-money-laundering-authority-amla-approaching-the-finish-line.html.
36. European Commission, "Commission Staff Working Document," 10.
37. European Commission, "Commission Staff Working Document," 10.
38. European Commission, "Commission Staff Working Document," 11.
39. European Commission, "Commission Staff Working Document," 19–20.
40. European Commission, "Commission Staff Working Document," 37.
41. European Commission, "About AMLA - European Commission."
42. Wagner-Rundell, "EU Anti-Money Laundering Authority (AMLA)."
43. European Commission, "Commission Staff Working Document," 11–12.
44. European Commission, "Commission Staff Working Document," 12.
45. European Commission, "Commission Staff Working Document," 12.
46. European Commission, "Commission Staff Working Document," 12.
47. European Commission, "Commission Staff Working Document," 22.
48. European Commission, "Commission Staff Working Document," 21.
49. European Commission, "Commission Staff Working Document," 75.
50. European Commission, "About AMLA - European Commission."
51. Oldrich Bures, "Private Actors in the Fight Against Terrorist Financing: Efficiency Versus Effectiveness," *Studies in Conflict & Terrorism* 35, no. 10 (2012): 712–32; Odrich Bures, "Public-Private Partnerships in the Fight against Terrorism?" *Crime Law and Social Change* 60, no. 4 (2013): 429–55.
52. Előd Takats, "A Theory of Crying Wolf: The Economics of Money Laundering Enforcement," 2007, www.imf.org/external/pubs/ft/wp/2007/wp0781.pdf.
53. European Commission, "Commission Staff Working Document," 55.
54. Bram van Sunder, "How New Rules on Financial Crime Will Impact the EU AML Regime," August 9, 2021, https://www.ey.com/en_gl/insights/financial-services/emeia/how-new-rules-on-financial-crime-will-impact-the-eu-aml-regime.

55. Edouard Fernandez-Bollo, "For a Fully Fledged European Anti-Money Laundering Authority," February 21, 2022, https://www.bankingsupervision.europa.eu/press/blog/2022/html/ssm.blog220221~826bce9447.en.html.
56. European Banking Authority, "EBA Report on the Future AML/CFT Framework in the EU" (Paris, France: 2020), https://www.eba.europa.eu/sites/default/files/document_library/Publications/Reports/2020/931093/EBA%20Report%20on%20the%20future%20of%20AML%20CFT%20framework%20in%20the%20EU.pdf.
57. European Banking Federation, "Lifting the Spell of Dirty Money: EBF Blueprint for an Effective EU Framework to Fight Money Laundering," March 2020, https://www.ebf.eu/wp-content/uploads/2020/03/EBF-Blueprint-for-an-effective-EU-framework-to-fight-money-laundering-Lifting-the-Spell-of-Dirty-Money-.pdf.
58. Nikos Passas, "Setting Global CFT Standards: A Critique and Suggestions," *Journal of Money Laundering Control* 9, no. 3 (2006): 284.
59. William Vlcek, "Securitization beyond Borders: Exceptionalism inside the EU and Impact on Policing beyond Borders European Measures to Combat Terrorist Financing and the Tension between Liberty and Security," Challenge Working Paper Work Package 2, 2005, 17, http://www2.lse.ac.uk/internationalRelations/centresandunits/EFPU/EFPUpdfs/EFPUchallengewp1.pdf.
60. Council of the European Union, "Council Conclusions on Anti-Money Laundering and Countering the Financing of Terrorism."
61. "Preventing Money Laundering and Terrorist Financing - EBF Response to EU Consultation," *EBF* (blog), August 27, 2020, 12–13, https://www.ebf.eu/anti-money-laundering/preventing-money-laundering-and-terrorist-financing-ebf-response-to-eu-consultation/.
62. European Parliament, "A Comprehensive Union Policy on Preventing Money Laundering and Terrorist Financing," para. G.
63. John Howell and Co., "Independent Scrutiny: The EU's Efforts in the Fight Against Terrorist Financing in the Context of the Financial Action Task Force's Nine Special Recommendations and the EU Counter Terrorist Financing Strategy," 2007, 24, http://www.statewatch.org/news/2007/sep/eu-terr-finance-report-2007.pdf.
64. Björn Müller-Wille, "For Our Eyes Only? Shaping an Intelligence Community Within the EU" (Institute for Security Studies, 2004).
65. Oldrich Bures, *EU Counterterrorism Policy: A Paper Tiger?* (Ashgate Publishing, 2011).
66. European Commission, "Commission Staff Working Document," 4.
67. European Commission, "Commission Staff Working Document," 4.
68. Select Committee on Economic Sanctions House of Lords, "Memorandum by Professor Peter Fitzgerald, Stetson University College of Law," *The Impact of Economic Sanctions*, Volume II: Evidence, 2007, 154, http://www.publications.parliament.uk/pa/ld200607/ldselect/ldeconaf/96/96ii.pdf.
69. Passas, "Setting Global CFT Standards: A Critique and Suggestions," 283.
70. House of Lords, "Memorandum by Professor Peter Fitzgerald," 156.
71. The Economist, "Getting to Them through Their Money," *The Economist*, September 27, 2001.
72. Vlcek, "Securitization beyond Borders."
73. Iain Cameron, "Terrorist Financing in International Law," in *International and European Financial Criminal Law*, ed. Ilias Bantekas (Butterworths/Lexis Nexis, 2006), 81.
74. House of Lords, "Memorandum by Professor Peter Fitzgerald," 150.
75. Martin Nettesheim, "U.N. Sanctions against Individuals - A Challenge to the Architecture of European Union Governance," *Common Market Law Review* 44 (2007): 567.
76. Judgment of the Court of First Instance in Case T-228/02 on December 12, 2006, followed by judgments in related follow-up cases T-256/07, T-284/08, and C-27/09 P.
77. Cases T-400/10 and C-79/15 P for Hamas. Joined Cases T-208/11 and T-508/11, and case C-599/14 P for LTTE.
78. European Commission, "Communication from the Commission to the European Parliament and the Council on an Action Plan for Strengthening the Fight against Terrorist Financing," 2016, http://data.consilium.europa.eu/doc/document/ST-5782-2016-INIT/en/pdf.

79. Howell and Co., "Independent Scrutiny," 42.
80. Cameron, "Terrorist Financing in International Law," 72.
81. Cameron, "Terrorist Financing in International Law," 66.
82. House of Lords, "Memorandum by Professor Peter Fitzgerald."
83. Council of the European Union, "EU Action Plan on Combating Terrorism," 2011, http://register.consilium.europa.eu/pdf/en/10/st15/st15893-re01.en10.pdf.
84. Byron Tau, "EU Leans Heavily on U.S. Program Tracking Terror Financing," *Wall Street Journal*, November 19, 2020, sec. Politics, https://www.wsj.com/articles/eu-leans-heavily-on-u-s-program-tracking-terror-financing-11605794404.
85. Frasher, "The EU's Anti-Money Laundering Regulation and Data Protection."
86. Wim Wensink et al., "The European Union's Policies on Counter-Terrorism Relevance, Coherence and Effectiveness" (European Parliament, January 2017), http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583124/IPOL_STU(2017)583124_EN.pdf.
87. Oldrich Bures, "Informal Counterterrorism Arrangements in Europe: Beauty by Variety or Duplicity by Abundance?" *Cooperation and Conflict* 47, no. 4 (2012): 495–518.

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ORCID

Oldrich Bures http://orcid.org/0000-0003-0714-1036